

1 HB700
2 109242-2
3 By Representative Knight
4 RFD: Government Appropriations
5 First Read: 10-MAR-09



1
2 ENROLLED, An Act,

3 To provide for the levy of fees upon certain
4 employers based upon the Alabama wages paid to construction
5 workers for the performance of skilled labor under a
6 construction contract or job located in this state; to fund a
7 program to provide for the recruitment of, and the promotion
8 of training programs and opportunities for, new construction
9 craft trade workers; to provide for the administration of the
10 fees by the Department of Revenue; to provide for the
11 remittance of the fees to the state 21st Century Authority for
12 the benefit of the Alabama Construction Recruitment Institute
13 charged with creating and implementing the program; and to
14 provide for the effective date of this act.

15 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

16 Section 1. As used in this act, the following words
17 shall have the following meanings:

18 (1) DEPARTMENT. The Department of Revenue.

19 (2) EMPLOYEE. An employee as defined in the Internal
20 Revenue Code as amended from time to time; however, any
21 individual providing services to an employer on an hourly,
22 part-time, full-time, salaried, or contractual basis shall
23 also be considered as such for purposes of this act.

24 (3) EMPLOYER. An employer as defined in the Internal
25 Revenue Code, as amended from time to time, which is either a

1 general contractor, contractor, or subcontractor who primarily
2 holds itself out for hire to the general public as a general
3 contractor, contractor, or subcontractor and who receives more
4 than five percent of its primary business from business
5 described under either North American Industry Classification
6 System (NAICS) Code 237 or 238 of the United States Department
7 of Commerce as of January 1, 2009. This definition does not
8 apply to or include residential home building and licensed
9 residential home builders contracting for home building as
10 defined in Chapter 14A of Title 34 of the Code of Alabama
11 1975, or those specifically exempted under Chapter 14A of
12 Title 34 of the Code of Alabama 1975.

13 (4) FEE. The tax levied by this act.

14 (5) GENERAL CONTRACTOR. Any individual, person,
15 corporation, limited liability entity, trust, association, or
16 any other business enterprise other than home building
17 projects by licensed residential home builders as defined in
18 Chapter 14A of Title 34 of the Code of Alabama 1975, or those
19 specifically exempted under Chapter 14A of Title 34 of the
20 Code of Alabama 1975, that for a price, commission, fee, or
21 payment undertakes to construct or superintend or engage in
22 the construction, alteration, maintenance, repair,
23 rehabilitation, remediation, reclamation, or demolition of any
24 building, highway, sewer, structure, site work, grading,
25 paving of any project, or any improvement in the State of

1 Alabama where the cost of the undertaking is or is expected to
2 be fifty thousand dollars (\$50,000) or more shall be deemed
3 and held to have engaged in the business of general
4 contracting in the State of Alabama.

5 (6) SKILLED LABOR. Includes all labor or services
6 performed by payroll workers directly engaged in construction
7 operations at the location of any construction or maintenance
8 site in Alabama. The term does not include labor or services
9 performed by supervisory employees above the working foreman
10 level.

11 (7) SUBCONTRACTOR. Any individual, person,
12 corporation, limited liability entity, trust, association, or
13 any other business enterprise performing work under contract
14 to a general contractor, but not licensed residential home
15 builders building homes as defined in Chapter 14A of Title 34
16 of the Code of Alabama 1975, or those specifically exempted
17 under Chapter 14A of Title 34 of the Code of Alabama 1975.

18 (8) WAGES. The gross earnings paid by an employer to
19 an employee, including all forms of compensation such as
20 salaries, hourly payments, commissions, remuneration,
21 dismissal pay, bonuses, and vacation and sick leave pay, prior
22 to deductions for items such as Social Security contributions,
23 withholding taxes, group insurance, union dues, and savings
24 bonds.

1 Section 2. (a) In addition to all other taxes now
2 imposed by law, there is hereby levied and imposed a fee on
3 the wages, as defined in this act, paid by the employer to
4 certain employees for the performance of a construction
5 contract or job in the State of Alabama, which fee shall be
6 assessed, collected, and paid quarterly at the rate and as
7 specified in subsection (b) and for each year as hereinafter
8 provided.

9 (b) Each employer shall remit to the department a
10 fee for the purpose of funding a program providing for the
11 recruitment of, and training opportunities for, new
12 construction craft trade labor in an amount equal to nine
13 one-hundredths of one percent of the Alabama wages paid
14 quarterly each calendar year to all employees of the employer
15 for the performance of skilled labor under a construction
16 contract or job located in this state for the first five
17 quarters following the effective date of this act.

18 (c) Following the first five quarters following the
19 effective date of this act, the receipts of the fee, less cost
20 of collection for the second through fifth quarters, shall be
21 tabulated and the fee rate shall be adjusted in order for the
22 net collections for the subsequent four quarters to amount to
23 one million seven hundred fifty thousand dollars (\$1,750,000),
24 and the revised fee rate shall be the fee rate for each
25 collection period thereafter.

1 (d) The fee levied by this act shall be remitted in
2 a manner and on forms prescribed by the department.

3 Section 3. It shall be the duty of the department to
4 administer this act. The department may adopt, amend, or
5 rescind rules and to employ persons, make expenditures,
6 require reports, make investigations, and take any other
7 action as may be necessary or suitable to that end. The same
8 penalties, interest, lien, and criminal provisions of Chapters
9 1, 2A, and 18 of Title 40, Code of Alabama 1975, shall apply
10 to taxpayers failing to accurately remit the fee owed as
11 established by this act to the department in the time set
12 forth by this act and as further prescribed by the department.

13 Section 4. In the event an employer fails to pay to
14 the department any amount required to be paid under this act,
15 that amount may be assessed against the employer in the same
16 manner, including interest and penalties, as is prescribed for
17 the assessment of income tax under the provisions of Chapter
18 2A of Title 40, Code of Alabama 1975. The employer may appeal
19 from any assessment in the same manner and subject to the same
20 procedures prescribed for income tax appeals by Chapter 2A of
21 Title 40. When no appeal is taken by the employer, execution
22 may be issued upon the final assessment in the same manner as
23 is provided by law for the issuance of an execution by the
24 Department of Revenue.

1 Section 5. (a) Any fees required by this act shall
2 be remitted to the department and, after the cost
3 appropriation in subsection (c), shall be deposited to the
4 credit of the state 21st Century Authority and then to the
5 credit of the Recruitment and Training Promotion Fund for the
6 purpose of funding a recruitment and training promotion
7 program to be administered by the Alabama Construction
8 Recruitment Institute.

9 (b) Fees collected pursuant to this act are
10 appropriated to the Alabama 21st Century Authority to the
11 credit of the Recruitment and Training Promotion Fund for each
12 fiscal year, or part thereof, following the effective date of
13 this act, and the proceeds from the fees shall be expended, in
14 whole or in part, as deemed appropriate by the Alabama
15 Construction Recruitment Institute and approved by the
16 secretary or other designee of the Alabama 21st Century
17 Authority.

18 (c) In addition to all other appropriations
19 heretofore or hereinafter made, there is hereby appropriated
20 to the Department of Revenue for the fiscal year ending
21 September 30, 2009, such amount as is reasonably required to
22 offset its administrative and collection costs as a first
23 charge against the revenues from the fee levied by this act.
24 For all subsequent fiscal years, there shall be appropriated
25 to the Department of Revenue as a first charge against the

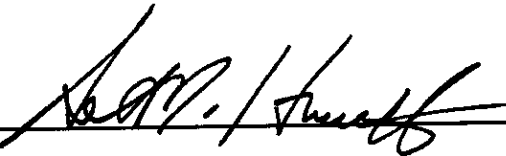
1 revenues from the fee levied by this act an amount that will
2 offset its actual costs in the administration and regulation
3 of this fee.

4 Section 6. Nothing in this act shall apply to anyone
5 licensed by the Alabama Home Builders Licensure Board or any
6 subcontractor working on any residential project falling under
7 the jurisdiction of the Home Builders Licensure Board.

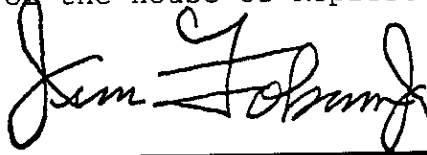
8 Further, nothing in this act shall apply to anyone that is
9 granted an exemption from the licensing requirements under
10 Chapter 14A of Title 34 of the Code of Alabama 1975, and their
11 subcontractors working on any residential project in Alabama.
12 Notwithstanding this provision, anyone licensed by the Alabama
13 Home Builders Licensure Board or subcontractors working on any
14 commercial or industrial project shall be subject to this act.

15 Section 7. This act shall become effective
16 immediately following its passage and approval by the
17 Governor, or its otherwise becoming law, and the passage and
18 approval by the Governor of SB301 of the 2009 Regular Session
19 of the Alabama Legislature, or SB301 otherwise becoming law
20 and shall expire and be repealed four years after its
21 effective date.

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Speaker of the House of Representatives



President and Presiding Officer of the Senate

House of Representatives

I hereby certify that the within Act originated in
and was passed by the House 05-MAY-09.

Greg Pappas
Clerk

Senate

14-MAY-09

Amended and Passed

House

14-MAY-09

Concurred in Sen-
ate Amendment

APPROVED May 18, 2009

TIME 1:10 p.m.


GOVERNOR

Alabama Secretary Of State

Act Num....: 2009-561
Bill Num....: H-700